



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,400	11/21/2001	Eric P. Plourde	769-297	3286

7590

08/14/2003

Gerald Levy, Esq.  
PITNEY, HARDIN, KIPP & SZUCH LLP  
711 Third Avenue  
New York, NY 10017-4059

EXAMINER

GOFF II, JOHN L

ART UNIT

PAPER NUMBER

1733

DATE MAILED: 08/14/2003

3

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/991,400

Applicant(s)

PLOURDE, ERIC P.

Examiner

John L. Goff

Art Unit

1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 5-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-4, drawn to a method for producing end seals on a fastener strip, classified in class 156, subclass 308.4.
  - II. Claims 5-8, drawn to an apparatus for producing ends seals on a fastener strip, classified in class 156, subclass 543.
2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus as claimed can be used to practice another and materially different process such as sealing/fusion bonding any two plastic substrates other than fastener strips.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

Art Unit: 1733

5. During a telephone conversation with Gerald Levy on 7/29/03 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-4. Affirmation of this election must be made by applicant in replying to this Office action. Claims 5-8 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### ***Information Disclosure Statement***

6. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Erden et al. (U.S. Patent 6,017,412).

Van Erden et al. disclose a method for sealing the ends of a fastener strip and attaching the fastener strip to a bag. Van Erden et al. teach the method comprises providing a continuous supply of fastener strip wherein the strip comprises first and second interlocking profiles, guiding a length of the fastener strip to a predetermined location using a positioning device, separating the length of the fastener strip from the continuous supply of fastener strip, and applying heater seal bars to the length of fastener strip such that the bars identify the ends of the fastener strip (the second end a measured distance from the first end), clamp the profiles of the fastener strip to each other, clamp the length of fastener strip to the bag, fuse the profiles to each other, and fuse the fastener strip to the bag. Van Erden et al. teach sealing the ends of the fastener strip prevents the profile ends from separating when the bag is opened by the user (Figures 3, 4, and 9 and Column 2, lines 52-55 and Column 3, lines 62-63 and Column 4, lines 32-40, 56-59, and 62-67 and Column 5, lines 1-6).

9. Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by Ohtsubo (U.S. Patent 6,511,406).

Ohtsubo discloses a method for sealing the ends of a fastener strip. Ohtsubo teaches the method comprises providing a continuous supply of fastener strip wherein the strip comprises first and second interlocking profiles, guiding the fastener strip to a predetermined location within guide and band, i.e. clamp, members, identifying a first end of the fastener strip, fusing the first end such that the ends of the first and second profiles are sealed/bonded to each other, identifying a second end of the fastener strip with the identification based on a measurement

Art Unit: 1733

from the first end, fusing the second end such that the ends of the first and second profiles are sealed/bonded to each other, and separating the fastener strip with sealed ends from the continuous supply of fastener strip (Figures 3, 5, and 6 and Column 6, lines 17-22, 35-39, 50-53, and 66-67 and Column 7, lines 1-9).

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art (Specification pages 1-2) in view of either Van Erden et al. or Ohtsubo.

The admitted prior art discloses it is known to use a length of fastener strip comprising first and second interlocking profiles as a reclosable fastener for a bag. The admitted prior art teaches a problem that is sometimes encountered by consumers when they open bags having these fasteners is that the two profiles become separated at their ends making it difficult for the bags to be reclosed (Specification page 1, lines 19-26 and page 2, lines 1-9). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the fastener strip taught by the admitted prior art to have sealed ends wherein the ends are sealed by fusion bonding the first and second profiles together as it was well known in the art to modify fastener strips used on bags in this manner to prevent the ends of the fastener strips from

Art Unit: 1733

separating and being unable to be reclosed as shown for example by either one of Van Erden et al. or Ohtsubo.

Van Erden et al. disclose a method for sealing the ends of a fastener strip and attaching the fastener strip to a bag. Van Erden et al. teach the method comprises providing a continuous supply of fastener strip wherein the strip comprises first and second interlocking profiles, guiding a length of the fastener strip to a predetermined location using a positioning device, separating the length of the fastener strip from the continuous supply of fastener strip, and applying heater seal bars to the length of fastener strip such that the bars identify the ends of the fastener strip (the second end a measured distance from the first end), clamp the profiles of the fastener strip to each other, clamp the length of fastener strip to the bag, fuse the profiles to each other, and fuse the fastener strip to the bag. Van Erden et al. teach sealing the ends of the fastener strip prevents the profile ends from separating when the bag is opened by the user (Figures 3, 4, and 9 and Column 2, lines 52-55 and Column 3, lines 62-63 and Column 4, lines 32-40, 56-59, and 62-67 and Column 5, lines 1-6).

Ohtsubo discloses a method for sealing the ends of a fastener strip. Ohtsubo teaches the method comprises providing a continuous supply of fastener strip wherein the strip comprises first and second interlocking profiles, guiding the fastener strip to a predetermined location within guide and band, i.e. clamp, members, identifying a first end of the fastener strip, fusing the first end such that the ends of the first and second profiles are sealed/bonded to each other, identifying a second end of the fastener strip with the identification based on a measurement from the first end, fusing the second end such that the ends of the first and second profiles are sealed/bonded to each other, and separating the fastener strip with sealed ends from the

Art Unit: 1733

continuous supply of fastener strip (Figures 3, 5, and 6 and Column 6, lines 17-22, 35-39, 50-53, and 66-67 and Column 7, lines 1-9).

*Conclusion*


12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **John L. Goff** whose telephone number is **703-305-7481**. The examiner can normally be reached on M-Th (8 - 5) and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Ball can be reached on 703-308-2058. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



John L. Goff  
August 7, 2003



Michael W. Ball  
Supervisory Patent Examiner  
Technology Center 1700